

EXHIBIT 1

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in Carroll v. Google, LLC, et al.*

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, SAN JOSE DIVISION

MARY CARR, *et al.*,
Plaintiffs,

CASE NO. 3:20-CV-05761 JD

vs.

GOOGLE LLC, *et al.*,

Consolidated with

Defendants.

DIANNE BENTLEY, *et al.*,
Plaintiffs,

CASE NO. 5:20-CV-07079

vs.

GOOGLE, LLC, *et al.*,
Defendants.

**PLAINTIFFS' STATEMENT RE:
CONSOLIDATION OF CONSUMER
CLASS ACTION COMPLAINTS**

Related Actions:

Epic Games, Inc. v. Google, LLC; 3:20-CV-05671-JD

Pure Sweat Basketball, Inc. v. Google, LLC; 3:20-CV-05792-JD

Peekya App. Serv., Inc. v. Google LLC, et al.; 3:20-CV-06772-JD

McNamara v. Google, LLC, et al.; 3:20-CV-07361-JD

Carroll v. Google, LLC, et al.; 3:20-CV-07379-JD

Herrera v. Google, LLC, et al.; 5:20-CV-07365

I, George A. Zelcs, declare as follows:

1. I am a partner in the law firm of Korein Tillery LLC ("Korein Tillery") and am one of the attorneys representing Plaintiffs in this action. I am admitted *pro hac vice* to practice in this Court.

2. I submit this declaration in support of Plaintiffs' Statement Regarding Consolidation of Consumer Class Action Complaints. The contents of this declaration are based on my personal knowledge. If called as a witness, I could and would competently testify thereto.

1 3. On October 26, 2020, counsel for *Carr*, *Bentley*, *Herrera*, *McNamara* and *Carroll*
2 spoke on the telephone to discuss consolidation and leadership of the consumer class. Agreement
3 was subsequently reached with counsel for *Carroll*, but not with *Herrera* or *McNamara*.¹

4 4. On October 29, 2020, I reached out to Laurence King at Kaplan, Fox & Kilsheimer
5 (“Kaplan Fox”), counsel for the *Herrera* plaintiffs, via telephone.

6 5. I spoke with Mr. King and informed him of the Court’s order. I asked Mr. King if
7 he would be willing to incorporate the *Herrera* plaintiffs into the existing Consolidated Class
8 Action Complaint. Mr. King advised he would speak with his client and be in touch.

9 6. Hearing nothing further, I followed up with Mr. King on November 2, 2020, and
10 received no response. (Ex. A, Email Chain Between Zelcs & King).

11 7. I again reached out to Mr. King on November 9, 2020. Mr. King answered that he
12 was still analyzing the situation. (*Id.*)

13 8. As of today’s date, neither Mr. King nor any other attorney at Kaplan Fox has
14 provided a meaningful response to my proposal nor have they proposed an alternative course of
15 action.

16 9. On November 6, 2020, I left a voicemail with Elizabeth Castillo of Cotchett Pitre &
17 McCarthy, LLP (“Cotchett”), counsel for the *McNamara* plaintiffs, and received no response.

18 10. I followed up via email on November 9, 2020, and again received no reply. (Ex. B,
19 Email Chain Between Zelcs, Castillo & Molumphy).

20 11. I sent Ms. Castillo another email on November 11, 2020. She answered that she
21 was occupied with other matters and copied another partner at Cotchett, Mark Molumphy. (*Id.*)

22 12. I promptly replied that same day asking for a time to speak with Ms. Castillo, Mr.
23 Molumphy, or both. No response was received that day. (*Id.*)

24 13. Five days later, on November 16, 2020, Mr. Molumphy responded they were still
25 evaluating other complaints. He asked if Mr. Zelcs was available “later in the week” to speak.
26 (*Id.*)

27 ¹ Full case citations are: (1) *Carr v. Google, LLC*, 3:20-CV-05761 (“*Carr*”); (2) *Bentley v. Google,*
28 *LLC*, 5:20-CV-07079 (“*Bentley*”); (3) *McNamara v. Google, LLC*, 3:20-CV-07361 (“*McNamara*”);
(4) *Herrera v. Google, LLC, et al.*; 5:20-CV-07365 (“*Herrera*”); and
(5) *Carroll v. Google, LLC*, 3:20-CV-07379 (“*Carroll*”).

14. Approximately half an hour later, still on November 16th, I responded I was available to talk and asked Mr. Molumphy to suggest a time that he was available. (*Id.*)

15. At this time, no response has been received from Mr. Molumphy, Ms. Castillo or any other attorney at Cotchett.

16. Pursuant to 28 U.S.C. §1746, I declare under penalty of perjury that the foregoing is true and correct and that I executed this declaration on November 17, 2020 in Chicago, Illinois.

/S/ George A. Zelcs
George A. Zelcs

EXHIBIT A

From: Zelcs, George
Sent: Monday, November 9, 2020 12:18 PM
To: 'Laurence King' <LKing@kaplanfox.com>
Subject: RE: Carr vs Google - Call

Thanks, Larry. I appreciate the feedback.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9750
Direct: (312) 641-9760
Fax: (312) 641-9751
E-mail: gzelcs@koreintillery.com

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-----Original Message-----

From: Laurence King [mailto:LKing@kaplanfox.com]
Sent: Monday, November 9, 2020 12:17 PM
To: Zelcs, George <GZelcs@KoreinTillery.com>
Subject: RE: Carr vs Google - Call

George, we are still analyzing and will be in touch when we have finished doing so. Best regards.

Larry

-----Original Message-----

From: Zelcs, George <GZelcs@KoreinTillery.com>
Sent: Monday, November 09, 2020 6:47 AM
To: Laurence King <LKing@kaplanfox.com>
Subject: RE: Carr vs Google - Call

Larry - following up again. Let me know of a convenient time to talk today.

Thank you.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9750
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Fax: (312) 641-9751
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-----Original Message-----

From: Zelcs, George
Sent: Monday, November 2, 2020 8:31 AM
To: 'Laurence King' <LKing@kaplanfox.com>
Subject: RE: Carr vs Google - Call

Larry - following up on our conversation last Thursday.

Thank you.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9750
Direct: (312) 641-9760
Fax: (312) 641-9751
E-mail: gzelcs@koreintillery.com

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-----Original Message-----

From: Zelcs, George
Sent: Thursday, October 29, 2020 3:53 PM
To: 'Laurence King' <LKing@kaplanfox.com>
Subject: RE: Carr vs Google - Call

Thanks, Larry. I will try you after 230 pm Pacific today. I was having trouble getting the 4700 number number to ring through earlier today.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
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Chicago, Illinois 60601
Phone: (312) 641-9750
Direct: (312) 641-9760
Fax: (312) 641-9751
E-mail: gzelcs@koreintillery.com

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-----Original Message-----

From: Laurence King [mailto:LKing@kaplanfox.com]

Sent: Thursday, October 29, 2020 3:47 PM
To: Zelcs, George <GZelcs@KoreinTillery.com>
Subject: Re: Carr vs Google - Call

Hello George -

I am available today from 230 Pacific on or tomorrow before 930 Pac or after 230 Pac.
Best number is 415-722-3637.

Larry King

Laurence D. King
Kaplan Fox & Kilsheimer LLP
(415) 772-4700

On Oct 29, 2020, at 1:13 PM, Zelcs, George <GZelcs@koreintillery.com> wrote:

Laurence – Is there a convenient time today when we may talk?

Thank you.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9750
Direct: (312) 641-9760
Fax: (312) 641-9751
E-mail: gzelcs@koreintillery.com<mailto:gzelcs@koreintillery.com>

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EXHIBIT B

From: "Zelcs, George" <GZelcs@KoreinTillery.com>
Date: November 16, 2020 at 6:05:08 PM CST
To: Mark Molumphy <MMolumphy@cpmlegal.com>
Cc: Elizabeth Castillo <ecastillo@cpmlegal.com>
Subject: Re: McNamara - Talk

Yes. Please advise of a time that works.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9750
Direct: (312) 641-9760
Fax: (312) 641-9751
E-mail: gzelcs@koreintillery.com

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On Nov 16, 2020, at 5:38 PM, Mark Molumphy <MMolumphy@cpmlegal.com> wrote:

George, we are still reviewing some recently filed complaints, and the DC case, but agree we should talk. Are you available later in the week?

From: Zelcs, George <GZelcs@KoreinTillery.com>
Sent: Wednesday, November 11, 2020 5:10 PM
To: Elizabeth Castillo <ecastillo@cpmlegal.com>
Cc: Mark Molumphy <MMolumphy@cpmlegal.com>
Subject: Re: McNamara - Talk

Thanks.

Let me know when either you or Mark are available to talk.

George A. Zelcs
Korein Tillery LLC
205 North Michigan Plaza
Suite 1950
Chicago, Illinois 60601
Phone: (312) 641-9750
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On Nov 11, 2020, at 2:38 PM, Elizabeth Castillo
<ecastillo@cpmlegal.com> wrote:

George,

Apologies for not getting back to you sooner. I have been completely swamped and am now tied up with a time sensitive appellate brief. I've copied my partner Mark Molumphy in the meantime.

Liz

Elizabeth T. Castillo ([profile](#))

COTCHETT PITRE&McCARTHYLLP

A LITIGATION LAW FIRM – SAN FRANCISCO, LOS ANGELES, NEW YORK

840 Malcolm Road, Suite 200 | Burlingame, CA 94010

Phone: (650) 697-6000 | Fax: (650) 697-0577 |

Email: ecastillo@cpmlegal.com

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From: Zelcs, George <GZelcs@KoreinTillery.com>

Sent: Wednesday, November 11, 2020 10:55 AM

To: Elizabeth Castillo <ecastillo@cpmlegal.com>

Subject: RE: McNamara - Talk

CAUTION: This email originated from outside of the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Following up. Please advise of a convenient time to talk.

George A. Zelcs
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From: Zelcs, George
Sent: Monday, November 9, 2020 3:33 PM
To: 'Elizabeth Castillo' <ecastillo@cpmlegal.com>
Subject: McNamara - Talk

Elizabeth – please advise of a convenient time for us to talk. I am following up on a voicemail I left earlier.

Thank you.

George A. Zelcs
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